



U.S.-CHINA COMMISSION

March 15, 2002

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Honorable Paul S. Sarbanes  
Chairman  
Committee on Banking, Housing and  
Urban Affairs  
United States Senate  
Room 534 Dirksen Building  
Washington, DC 20510

Honorable Phil Gramm  
Ranking Member  
Committee on Banking, Housing and  
Urban Affairs  
United States Senate  
Room 534 Dirksen Building  
Washington, DC 20510

Dear Chairman Sarbanes and Ranking Member Gramm:

Congress created the bipartisan, twelve person, U.S. China Security Review Commission in October 2000 for the purpose of monitoring, investigating and reporting on the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China. The Commission is charged to deliver its first report to the Congress in June of 2002 along with its recommendations for legislative or executive action. We have also been asked to bring items of importance, if any, to the attention of Congress before that time, if we deem it appropriate.

On January 17, 2002 the Commission held a hearing to examine the administration of our national security export controls related to China. Various officials from the present administration and other experts testified at that hearing. One of the administration witnesses, Mr. Michael J. Garcia, the Assistant Secretary of Commerce for Export Enforcement, brought to our attention a matter that may be of interest to your Committee as you work to re-authorize the Export Administration Act. (Relevant portions of his testimony are attached.) Section 1213 of that Act deals with the issue of post-shipment verifications of the export of high performance computers. That provision requires the Secretary of Commerce to conduct a post-shipment verification of each digital computer with a composite theoretical performance of more than 2,000 million theoretical operations per second (MTOPS) that is exported from the U.S. to Tier 3 countries, including China.

Mr. Garcia testified that such a blanket requirement no longer makes sense. Since its enactment, various Administrations have raised the licensing levels for computer exports. This has resulted in a legal requirement for the



Commerce Department to conduct post-shipment verifications on computers previously licensed for export to China but which are no longer controlled. In Mr. Garcia's view, that blanket requirement overburdens and consequently undermines the Commerce Department's ability to conduct post-shipment verifications of computers that are controlled. We understand that S. 149, the bill that passed the Senate, and H.R. 2581 now before the House, contain an amendment to rectify this problem by permitting more discretion to the Department in conducting post-shipment verifications of U.S. exported computers.

We hope this information is helpful to you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Patrick A. Mulloy".

Patrick A. Mulloy  
Acting Chairman

Attachment: As stated

Cc: Senator Daschle  
Senator Lott  
Rep. Hastert  
Rep. Gephardt